

TN

Department of
**Mental Health &
Substance Abuse Services**



Tennessee Tobacco Retailer Education Guide

Supporting Retailers to Know and Follow the Law

Developed by TDMHSAS in collaboration with:

TN

Department of
Agriculture

TN

Department of
Health



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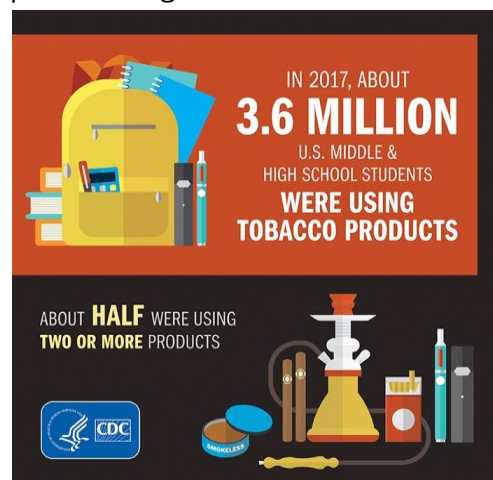
TOBACCO FACTS

Preventing tobacco use among youth is critical to ending the tobacco epidemic in the U.S.

- Tobacco use is started and established primarily during adolescence.^{1,2}
 - Nearly 9 out of 10 cigarette smokers first tried smoking by age 18, and 98% first tried smoking by age 26.¹
 - Each day in the United States, more than 3,200 youth aged 18 years or younger smoke their first cigarette, and an additional 2,100 youth and young adults become daily cigarette smokers.¹
- Flavorings in tobacco products can make them more appealing to youth.³
 - In 2014, 73% of high school students and 56% of middle school students who used tobacco products in the past 30 days reported using a flavored tobacco product during that time.
- In 2017, nearly 6 out of 100 middle school students (5.6%) and nearly 20 out of 100 high school students (19.6%) reported current use of some type of tobacco product.⁴

Youth using tobacco in any form is unsafe.

- If smoking continues at the current rate among youth in this country, 5.6 million of today's Americans younger than 18 will die early from a smoking-related illness. That's about 1 out of 13 Americans aged 17 years or younger alive today.¹



Youth who use multiple tobacco products are at higher risk for developing nicotine dependence and might be more likely to continue using tobacco into adulthood.⁵

¹ U.S. Department of Health and Human Services. [The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General](#). Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014

² U.S. Department of Health and Human Services. [Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General](#). Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012

³ Centers for Disease Control and Prevention. [Flavored Tobacco Product Use Among Middle and High School Students—United States, 2014](#). Morbidity and Mortality Weekly Report, 2015;64(38):1066–70

⁴ Centers for Disease Control and Prevention. [Tobacco Use Among Middle and High School Students—United States, 2011–2017](#). Morbidity and Mortality Weekly Report, 2018;67(22):629–33

⁵ U.S. Department of Health and Human Services. [Reducing Tobacco Use: A Report of the Surgeon General](#). Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2000

TOBACCO LAWS

Below are brief descriptions of the laws pertaining to selling tobacco and vapor products to youth in Tennessee. The full text can be found at TN.gov/government under "Tennessee Code and Revenue Rules."

- **Sale to Minors (TCA § 39-17-1504)**
 - Makes it unlawful to sell or distribute ANY tobacco or vapor product to anyone under the age of 18 or to purchase a tobacco or vapor product on behalf of a person under the age of 18.
 - Proof of age is required if an ordinary person would conclude on the basis of appearance that a prospective buyer or recipient may be under the age of 27.
- **Prohibited Purchases or Possession by Minors (TCA § 39-17-1505)**
 - Makes it unlawful for anyone under the age of 18 to possess, purchase, or accept any tobacco or vapor product or to present false proof of age, which is fraudulent, for the purpose of purchasing or receiving any tobacco or vapor product.
- **Required Postings (TCA § 39-17-1506)**
 - Lists the dimensions and the required wording for signs that must be posted at retail locations, which shall be no smaller than ninety-three and one-half (93 ½) square inches, to ensure that it is likely to be read at each point of sale.
- **Vending Machine Sales (TCA § 39-17-1507 and 21 C.F.R. § 1140.16(c)(2))**
 - Makes it unlawful for any person to sell tobacco products through a vending machine unless located in any of the locations listed in the full description of the law, and the new federal law, 21 C.F.R. § 1140.16(c)(2), which took effect on 06/22/2010. (This new law preempts state law and must be considered with regard to vending machine sales.)
 - Bans vending machine and self-service displays except in facilities where the retailer ensures that no person under the age of 18 is present, or permitted to enter, at any time.
- **Required Packaging (TCA § 39-17-1508)**
 - Makes it unlawful to sell cigarettes or smokeless tobacco products except in the original, sealed package in which they were placed by the manufacturer that bears the health warning required by federal law.
- **Enforcement-Inspections-Reporting-Civil Penalties (TCA § 39-17-1509)**
 - Describes enforcement, inspections, and reporting procedures. Also lists civil penalties for non-compliance.
- **Children's Act for Clean Indoor Air (TCA § 39-17-1602 through 1606)**
 - Lists the purpose of the act along with places where smoking is prohibited, required postings, and penalties.

TOBACCO PRODUCTS

In Tennessee, it is against the law to sell tobacco products to anyone under the age of 18.

- Cigarettes
- Cigars, Cigarillos, etc., including flavored products
- Chewing/Spitting/Smokeless Tobacco
- Snuff
- Loose Tobacco (pipe tobacco)
- "Loosies" – A slang term given to individual cigarettes
- Bidis (pronounced "bee-dees") – Small, thin, hand-rolled cigarettes that are wrapped in a tendu or temburni leaf
- Vapor Products (including E-cigarettes, E-hookah, E-cigars, Vape pens, JUUL, etc.)
- Alternative Nicotine Products
- Any product containing tobacco
- Tobacco Accessories (including rolling papers, vapor product component parts, or parts used to refill vapor products)

***If you are unsure if a product is illegal to sell to youth – DON'T SELL!**



VALID FORMS OF ID



Federal law requires that retailers **check the identification of everyone under 27 years old** before selling them tobacco and vapor products. You must refuse to sell tobacco and vapor products to anyone **under the age of 18**.

Accept only a valid government issued **photo ID** that clearly shows a photo of the person, a physical description, and a date of birth showing that the person is **at least 18 years old**. To be valid, the ID must be current and not expired.

The following forms of government issued photo ID are acceptable:

- State-issued Driver's License
- State-issued ID card (for non-drivers)
- Passport
- Immigration Card
- Military ID

***Note:** There are many types of Military Identification Cards and Immigrant Visa Cards and they come in a variety of colors. If a customer provides you with a Military ID or an Immigrant Visa, check for the photo and the date of birth on the card. They may appear on opposite sides of the ID card.

***Note:** Effective July 1, 2018 TN Driver's Licenses for minors under the age of 21 will be in vertical format (similar to the state-issued ID). Licenses issued before this date are valid until they expire.



Date of Birth



Date of Birth

HOW TO CHECK ID

1. Ask anyone who appears under the age of 27 to show their photo ID.
2. Have the customer remove the ID from their wallet.
3. Look at the photo. Make sure the photo and physical description match the customer.
4. Check the expiration date. If the expiration date has passed, the ID is not valid.
5. Check the date of birth and compare it to a calendar. If the customer is **under the age of 18**, DO NOT sell them any tobacco products.
6. If the driver's license is vertical, this could mean that the customer is **under the age of 21**. Check the date of birth to verify that the customer is **at least 18 years old**.
7. Check for DUPLICATE or REPLACEMENT. This could mean that this is not the actual customer's ID.
8. Check for signs of tampering.
9. Be cautious if a customer shows the interim paper copy of their ID. Check the date it was issued. They should have received the permanent copy of their ID within 20 days of the issue date.
10. Ask for a 2nd or 3rd form of ID if you are unsure.

***Contact your local beer distributor for a copy of the most recent ID Checking Guide.**

SPOTTING A FAKE ID

***Note: The information most tampered with is the picture, birth date, and height.**

1. **Compare the ID to the person.**
 - Compare facial features
 - Check for red eye in the photo
 - Compare the height information to the person
 - Compare the birth date to the person
2. **Check for signs of tampering.**
 - Feel for bumpy surfaces or bubbles under the lamination
 - Look for erasure marks
 - Check for fuzzy numbers or letters, numbers or letters that do not line up, or numbers or letters that have different fonts
 - Check for a misaligned state seal
 - Check that appropriate watermarks are present
 - Look for rough edges, especially around the picture
3. **Ask for other forms of ID.**
 - Ask the customer for a 2nd or 3rd form of ID if you are unsure.
 - In the case of a borrowed driver's license where the customer looks similar to the owner of the ID, there will probably not be multiple cards with the same name as the ID. **Ask to see a credit card.**

***REMEMBER:**
When in doubt,
don't make the sale.
You are NOT
obligated to sell any
tobacco products.

YOUTH STRATEGIES FOR GETTING TOBACCO

- **Use a fake ID**
 - Pro tip: If you have doubts the ID is real, ask the person what their horoscope sign is based on the birth date of the card.
 - Pro tip 2: Ask them the capital of the state listed on their card.
- **Use a borrowed ID**
 - Pro tip: The most faked IDs in the United States are Florida, Pennsylvania, Connecticut, and Illinois. If you ever see these IDs, quick and easy signs that it's fake!
- **Flirt with, Make "friends" with, or Bribe the clerk OR Travel in groups**
 - Pro tip: Don't let yourself be bullied!
 - There are things you can do if you are being bullied:
 - Look at the person bullying you and tell him or her to stop in a calm, clear voice. You can also try to laugh it off. This works best if joking is easy for you. It could catch the person bullying you off guard.
 - If speaking up seems too hard or not safe, contact a supervisor or a coworker.
 - (From: <https://www.stopbullying.gov/kids/what-you-can-do>)
- **Have someone else buy the product for them**
 - Pro tip: A 2005 study based on the California Tobacco Survey found that 82 percent of adolescent smokers obtained their cigarettes from others, most of whom were friends.
- **Choose stores that don't ask for ID (easy sale store)**
- **Try to purchase during the busy part of the day when the clerks are more distracted and in a hurry**
 - Pro tip: Real IDs never have a good looking signature. It's hard to write on that digital pad. If it looks like a font, it's probably not real and you can tell that quickly!
- **Claim they are buying for their parent/guardian**
 - Pro Tip: There is help for people who want to quit! Let them know! Check out: <https://www.tn.gov/health/health-program-areas/fhw/tobacco.html>

HOW TO REFUSE A SALE

- **Check ID first.** Always ask the customer for ID before taking the tobacco product from the shelf.
- **Take your time.** Take your time when checking the ID. Do not rush.
- **Be firm and polite.** Firmly and politely refuse any sale that seems suspicious. Do not accuse.
- **Explain why.** Tell the person why you can't sell the tobacco product.
- **Resist customer pressure.** The customer may try to make you feel bad for not selling to them. Stand your ground. You are **not** required to sell any tobacco products.
- **Resist peer pressure.** Train and encourage young employees to resist any pressure to sell tobacco products to their classmates or peers.
- **Get help.** If a customer becomes irate: stay calm, don't argue, and call a supervisor or manager for assistance. Offer to get a police officer's opinion. The law is on your side.
- **Next customer.** Shift your attention to the next customer in line.
- **Practice.** Managers, practice role-playing these scenarios with your employees.

WHAT TO SAY:

"I'm sorry; I must check a photo ID of anyone under 27 before selling tobacco. It's nothing personal—it's the law."

"I'm sorry; I can't sell tobacco products to anyone under 18. It's nothing personal—it's the law. I could lose my job or be fined a lot of money."

REASONS TO REFUSE A SALE:

The customer has no photo ID.
The ID photo does not match the customer.
The ID contains no date of birth.
The ID doesn't appear to be authentic.
The ID shows the customer is underage.
The ID has expired.

GOOD RETAILER POLICIES

- **Practice ID checking with staff.** The average clerk spends 2 seconds checking an ID. This is not enough time to properly check an ID.
- **Have staff training and meetings regularly.** It is important that retail clerks are trained properly on how to spot fake, altered, borrowed, or underage IDs. Document these trainings and keep them in your employee records.
- **Placement Practices.** State (**TCA § 39-17-1511**) and federal laws require that all tobacco products and smoking paraphernalia be placed behind the counter or in locked cases where customers cannot access. If inspectors find Self-Service Displays of tobacco products (where customers can access them), you will be fined.

- **Train your staff on the law.** It is your staff's responsibility to know the laws that govern the industry of tobacco sales. Knowing these laws will help reduce failing tobacco compliance checks in the future.
- **Train your staff on how to properly use the store's register and scanning system.** If your store does not have an ID scanning system, train your staff on how to look for the under 18 information.

INCENTIVES FOR OBEYING THE LAW

- No fines
- Keep your job
- Gain/maintain respect of the community
- May be rewarded by management
- Reduce the number of youth who may become addicted to tobacco
- Fewer youth will target your store for illegal purchases



CIVIL PENALTIES

- Anyone who violates TCA § 39-17-1504, § 39-17-1506, § 39-17-1507, or § 39-17-1508 shall receive the following civil penalties:

Offense	Civil Penalties
1st	Warning Letter
2nd	Fine up to \$500
3rd	Fine up to \$1,000
4th & Subsequent	Fine up to \$1,500

- For the purpose of determining subsequent violations, only those violations that occurred within the previous five (5) years shall be counted.
- Violations will be recorded in retailers' records for five (5) years.

TEST YOUR KNOWLEDGE!

1. A valid ID:
 - A. Includes a photo of the person
 - B. Includes the birthdate showing the person is 18 or older
 - C. Is current and not expired
 - D. All of the above
2. It is illegal to sell or give _____ to minors (anyone under 18).
 - A. Cigarettes
 - B. Smokeless Tobacco
 - C. E-cigarettes
 - D. All of the above
3. When should you decline a sale:
 - A. If ID is expired
 - B. If ID is not legible
 - C. If you are unsure the ID belongs to the person presenting it
 - D. All of the above
4. Proof of age is required from anyone that appears to be under the age of
 - A. 17
 - B. 27
 - C. 47
 - D. 57
5. If a customer can't provide a valid ID or you don't think it's real, you should:
 - A. Refuse the sale. You do not have to sell any tobacco products.
 - B. Sell them the tobacco product only if they look over 18.
 - C. Sell them the tobacco product only if they are with someone with a valid and real ID.
 - D. Sell them the tobacco product only if they say they are over 18.
6. Local law enforcement, public health agencies, and the State of Tennessee _____ throughout the year to ensure retailers do not sell tobacco to kids.
 - A. Provide Educational Information
 - B. Conduct Compliance Checks
 - C. Both A & B
 - D. None of the above
7. Selling tobacco products to a minor under the age of 18 could result in up to \$1500 in fines or civil penalties.
 - A. True
 - B. False
8. Law enforcement must give an establishment 24 hour notice before conducting a compliance check.
 - A. True
 - B. False
9. E-cigarettes and other similar products do not contain tobacco; therefore, no ID is required to purchase.
 - A. True
 - B. False
10. A loose cigarette or "loosies" is legal to sell in the state of Tennessee.
 - A. True
 - B. False
11. In July 2018, the State of Tennessee changed the under 21 license from the traditional horizontal format to vertical (tall) to make it easier to tell if the person is under 21.
 - A. True
 - B. False
12. If a person appears to be over the age of 18, you do not have to check their ID.
 - A. True
 - B. False

Answers: 1. D 2. D 3. D 4. B 5. A 6. C 7. True 8. False 9. False 10. False 11. True 12. False

ADDITIONAL RESOURCES

1) FDA

- **Tobacco Products**
 - i. www.fda.gov/TobaccoProducts/default.htm
- **Compliance, Enforcement, & Training**
 - i. www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/default.htm
- **Summary of Federal Laws**
 - i. www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/Retail/ucm205021.htm
- **“This is Our Watch” Education Program**
 - i. <https://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/Retail/ucm237741.htm>

2) Tennessee Synar Reports (State tobacco retailer compliance checks)

- <https://www.tn.gov/behavioral-health/substance-abuse-services/prevention/prevention/draft-annual-synar-report.html>

3) TN Department of Mental Health and Substance Abuse Services, Tobacco Prevention for Youth

- <https://www.tn.gov/behavioral-health/substance-abuse-services/prevention/prevention/tobacco-prevention-for-youth.html>

4) TN Department of Health, Tennessee Tobacco Program

- <https://www.tn.gov/health/health-program-areas/tennessee-tobacco-program.html>

5) Office of the Tennessee Attorney General

- <https://www.tn.gov/attorneygeneral/working-for-tennessee/enforcing-tobacco-laws.html>

6) Family Smoking Prevention & Tobacco Control Act

- <https://www.fda.gov/TobaccoProducts/Labeling/RulesRegulationsGuidance/ucm246129.htm>



Thank you for your support in our efforts to reduce tobacco sales to minors.

Tennessee Department of Mental Health and Substance Abuse Services

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